

Message Text

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61
ORIGIN IO-10

INFO OCT-01 ISO-00 AF-06 ARA-10 EA-10 EUR-12 NEA-09

CIAE-00 COME-00 DODE-00 DOTE-00 EB-07 FMC-02 INR-07

NSAE-00 CG-00 OFA-01 DLOS-05 ACDA-10 PM-03 L-02

NASA-02 NSC-05 OES-05 H-02 PA-02 PRS-01 SP-02 SS-15

USIA-15 CCO-00 OTPE-00 FCC-02 OC-05 BIB-01 OIC-02

TRSE-00 OMB-01 /155 R

DRAFTED BY IO/TRC:;FREIDLAD

APPROVED BY IO/TRC:CGRIP

EB - J. O'NEILL

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P 101933Z APR 75

FM SECSTATE WASHDC

TO AMEMBASSY LONDON PRIORITY

AMEMBASSY OSLO PRIORITY

AMEMBASSY STOCKHOLM PRIORITY

AMEMBASSY HELSINKI PRIORITY

AMEMBASSY MOSCOW PRIORITY

AMEMBASSY ATHENS PRIORITY

AMEMBASSY ROME PRIORITY

AMEMBASSY COPENHAGEN PRIORITY

AMEMBASSY THE HAGUE PRIORITY

AMEMBASSY BONN PRIORITY

AMEMBASSY PARIS PRIORITY

AMEMBASSY TOKYO PRIORITY

AMEMBASSY CANBERRA PRIORITY

AMEMBASSY WELLINGTON PRIORITY

AMEMBASSY OTTAWA PRIORITY

AMEMBASSY BRASILIA PRIORITY

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E.O. 11652: N/A

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TAGS: IMCO, PORG, ETEL

SUBJECT: MARITIME SATELLITES: US NOTE TO INTERNATIONAL
CONFERENCE

1. TEXT FOLLOWS OF US NOTE TO BE TRANSMITTED TO IMCO
SECRETARIAT FOR DISTRIBUTION AS OPENING OF INTERNATIONAL
MARITIME SATELLITE CONFERENCE IN LONDON APRIL 23.
ADDRESSEE POSTS WILL BE REQUESTED TO PROVIDE COPY OF NOTE
TO APPROPRIATE HOST GOVERNMENT OFFICIALS SOONEST PURSUANT
TO GUIDANCE BEING SENT SEPTEL.

2. NOTE SUBMITTED BY THE UNITED STATES OF AMERICA

THE UNITED STATES BELIEVES THERE IS AN IMPORTANT NEED FOR
IMPROVED MARITIME COMMUNICATIONS; THAT THE APPLICATION OF
SATELLITE TECHNOLOGY IS THE MOST PROMISING MEANS OF
SATISFYING THIS NEED; AND THAT THE PREPONDERANTLY INTER-
NATIONAL CHARACTER OF MERCHANT SHIPPING SUPPORT CONSIDERA-
TION OF AN INTERNATIONAL COOPERATIVE EFFORT LOOKING
TOWARD THE ESTABLISHMENT OF A GLOBAL MARITIME SATELLITE
COMMUNICATIONS SYSTEM. THE UNITED STATES WELCOMES THIS
EFFORT AND IS PREPARED TO PARTICIPATE IN GOOD FAITH IN
NEGOTIATIONS CONCERNING THE ESTABLISHMENT OF SUCH A SYSTEM.

3. HOWEVER, IN APPROACHING THE TASK OF ESTABLISHING A
MARITIME COMMUNICATIONS SATELLITE SYSTEM, THE UNITED
STATES WISHES TO DRAW ATTENTION TO THE MANNER IN WHICH IT,
AND POSSIBLY OTHERS, WOULD HAVE TO PARTICIPATE IN THE
SYSTEM'S DEVELOPMENT, FINANCING AND OPERATION. THE UNITED
STATES CAN ONLY PARTICIPATE IN A GLOBAL MARITIME SATELLITE
COMMUNICATIONS SYSTEM IF ITS INSTITUTIONAL FRAMEWORK
INCORPORATES PROVISION FOR A GOVERNMENT TO DESIGNATE A
PRIVATE, NON-GOVERNMENTAL TELECOMMUNICATIONS ENTITY TO
UNDERTAKE THE BASIC FINANCIAL, TECHNICAL AND OPERATIONAL
RESPONSIBILITIES. ACCEPTANCE OF THIS PRINCIPLE IS
ESSENTIAL TO UNITED STATES PARTICIPATION IN INMARSAT.
IT MUST BE CLEARLY UNDERSTOOD THAT THE UNITED STATES
GOVERNMENT WILL NOT BE DIRECTLY OR INDIRECTLY LIABLE NOR
IN ANY WAY RESPONSIBLE FOR ANY FINANCIAL OBLIGATIONS
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INCURRED BY ITS DESIGNATED ENTITY, NOR WILL IT FUNCTION
AS GUARANTOR FOR THE ENTITY. THE DESIGNATED ENTITY WILL
BE RESPONSIBLE FOR ALL FINANCIAL, TECHNICAL AND
OPERATIONAL ASPECTS OF PARTICIPATION. HOWEVER, IT WILL
BE FULLY REGULATED AND INSTRUCTED BY THE UNITED STATES
GOVERNMENT ON THOSE MATTERS WHICH AFFECT GOVERNMENT
RESPONSIBILITIES, INCLUDING DISTRESS AND SAFETY SERVICES,
AS WELL AS ON OTHER MATTERS RELATING TO ITS OPERATION.

4. THE UNITED STATES WISHES TO STRESS THAT DESIGNATION
BY A GOVERNMENT OF AN ENTITY TO BE ITS PARTICIPANT IN
INMARSAT WOULD NOT LESSEN OR IN ANY WAY LIMIT THE
RESPONSIBILITIES THAT GOVERNMENT HAS UNDERTAKEN UNDER
OTHER INTERNATIONAL AGREEMENTS. THE UNITED STATES

GOVERNMENT INTENDS TO HONOR FULLY ITS OBLIGATIONS AS
A PARTY TO THESE AGREEMENTS.

5. AFTER CAREFUL AND EXTENSIVE EXAMINATION OF THE DRAFT CONVENTION PREPARED BY THE PANEL OF EXPERTS, THE UNITED STATES HAS CONCLUDED THAT IT DOES NOT ADEQUATELY DELINEATE THE RIGHTS AND OBLIGATIONS OF A GOVERNMENT AND THE ENTITY IT MAY DESIGNATE. THE UNITED STATES BELIEVES THIS DELINEATION CAN ONLY BE ACHIEVED CLEARLY AND EASILY THROUGH TWO AGREEMENTS, WHICH TAKEN TOGETHER WOULD FORM THE BASIS OF INMARSAT: 1) AN INTERGOVERNMENTAL AGREEMENT TO BE SIGNED BY GOVERNMENTS, AND 2) AN OPERATING AGREEMENT TO BE SIGNED EITHER BY GOVERNMENTS OR BY THEIR DESIGNATED ENTITY. THE ARTICLES IN THESE AGREEMENTS WOULD TOPICALLY PARALLEL THE ARTICLES IN THE POE DRAFT CONVENTION, AND IT WOULD BE A RELATIVELY SIMPLE TASK TO IDENTIFY THOSE ARTICLES WHICH CONCERN THE RIGHTS AND OBLIGATIONS OF A GOVERNMENT AND THOSE WHICH CONCERN ITS DESIGNATED ENTITY. THE UNITED STATES DOES NOT BELIEVE THAT THE WORK OF THE

CONFERENCE WILL BE DELAYED TO ANY SIGNIFICANT EXTENT BY CONSIDERATION OF TWO AGREEMENTS AS OPPOSED TO ONE. MOREOVER, THE FACT THAT EACH AGREEMENT WILL BE SIGNED SERVES TO CLARIFY PRECISELY TO WHOM THE OTHER PARTIES AND SIGNATORIES AND THE ORGANIZATION, ITSELF, SHOULD LOOK FOR THE SATISFACTION OF PARTICULAR OBLIGATIONS.

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6. IN ORDER TO PROVIDE AN OPPORTUNITY TO CONSIDER THE UNITED STATES PROPOSALS REGARDING A DESIGNATED ENTITY AND TWO AGREEMENTS, ATTACHED HERETO ARE TWO LISTS: THE FIRST, AN ARTICLE BY ARTICLE LISTING OF THE CONTENTS OF THE PROPOSED INTERGOVERNMENTAL AGREEMENT, AND THE SECOND, AN ARTICLE BY ARTICLE LISTING OF THE CONTENTS OF THE PROPOSED OPERATING AGREEMENT. ADDITIONALLY THE DEFINITIONS REQUIRED TO DISTINGUISH BETWEEN THE TWO PROPOSED AGREEMENTS AND THE SPECIFIC TEXT REQUIRED TO GIVE EFFECT TO THE CONCEPT OF THE DESIGNATED ENTITY ARE PROVIDED UNDER ARTICLES I AND II, RESPECTIVELY, OF THE INTERGOVERNMENTAL AGREEMENT. (NOTE: THE UNITED STATES DOES NOT INTEND BY THE SUBMISSION OF TEXTS SPECIFICALLY FOR ARTICLES I AND II TO IMPLY IT IS IN FULL AGREEMENT WITH THE SUBSTANTIVE PROVISIONS OF ALL ARTICLES IN THE DRAFT CONVENTION PREPARED BY THE POE. THE CONFERENCE WILL HAVE TO EXAMINE ALL OF THE ARTICLES IN THE POE DRAFT CONVENTION, AND THE UNITED STATES EXPECTS TO RAISE BOTH SUBSTANTIVE AND EDITORIAL MATTERS.)

7. ATTACHMENTS:
ONE. LIST OF ARTICLES FOR INTERGOVERNMENTAL AGREEMENT.
TWO. LIST OF ARTICLES FOR OPERATING AGREEMENT.

8. ATTACHMENT 1 TO U.S. NOTE

PREAMBLE

ARTICLE I - DEFINITIONS

(A) "AGREEMENT" MEANS THE PRESENT AGREEMENT, INCLUDING ITS ANNEX, OPENED FOR SIGNATURE BY GOVERNMENTS AT ON , BY WHICH THE INTERNATIONAL MARITIME SATELLITE ORGANIZATION ("INMARSAT") IS ESTABLISHED.

(B) "OPERATING AGREEMENT" MEANS THE AGREEMENT, INCLUDING ITS ANNEX, OPENED FOR SIGNATURE AT ON BY GOVERNMENTS OR TELECOMMUNICATIONS ENTITIES DESIGNATED BY GOVERNMENTS IN ACCORDANCE WITH THE PROVISIONS OF THIS AGREEMENT.

(C) "PARTY" MEANS A STATE FOR WHICH THIS AGREEMENT IS IN FORCE.

(D) "SIGNATORY" MEANS A PARTY, OR A TELECOMMUNICATIONS ENTITY DESIGNATED IN ACCORDANCE WITH ARTICLE II(B), WHICH HAS SIGNED THE OPERATING AGREEMENT AND FOR WHICH IT UNCLASSIFIED

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IS IN FORCE.

ARTICLE II - ESTABLISHMENT OF INMARSAT

(B) EACH PARTY SHALL SIGN OR SHALL DESIGNATE A TELE-COMMUNICATIONS ENTITY, PUBLIC OR PRIVATE, TO SIGN THE OPERATING AGREEMENT WHICH SHALL BE CONCLUDED IN CONFORMITY WITH THE PROVISIONS OF THIS AGREEMENT AND WHICH SHALL BE OPENED FOR SIGNATURE AT THE SAME TIME AS THIS AGREEMENT. UPON SUCH DESIGNATION AND SIGNATURE, THE PARTY DESIGNATING A SIGNATORY SHALL NOT BE DIRECTLY OR INDIRECTLY LIABLE FOR OBLIGATIONS ARISING UNDER THE OPERATING AGREEMENT.

(C) RELATIONS BETWEEN ANY SIGNATORY DESIGNATED BY A PARTY AND THE PARTY WHICH HAS DESIGNATED IT SHALL BE GOVERNED BY APPLICABLE DOMESTIC LAW. TELECOMMUNICATIONS ADMINISTRATIONS AND ENTITIES MAY, SUBJECT TO APPLICABLE DOMESTIC LAW, NEGOTIATE AND ENTER DIRECTLY INTO APPROPRIATE TRAFFIC AGREEMENTS WITH RESPECT TO THEIR USE OF CHANNELS OF TELECOMMUNICATIONS PROVIDED PURSUANT TO THIS AGREEMENT AND THE OPERATING AGREEMENT, AS WELL AS WITH RESPECT TO SERVICES TO BE FURNISHED TO THE PUBLIC, FACILITIES, DIVISIONS OF REVENUES AND RELATED BUSINESS ARRANGEMENTS.

ARTICLE III - PURPOSE

ARTICLE IV - PROVISION OF SPACE SEGMENT

ARTICLE V - RIGHTS AND OBLIGATIONS

ARTICLE VI - ACCESS TO SPACE SEGMENT

ARTICLE VII - LEGAL PERSONALITY

ARTICLE VIII - STRUCTURE

ARTICLE IX - ASSEMBLY - COMPOSITION AND PROCEDURE

ARTICLE X - ASSEMBLY - FUNCTIONS

ARTICLE XI - ASSEMBLY - VOTING

ARTICLE XII - COUNCIL - COMPOSITION AND PROCEDURE

ARTICLE XIII - COUNCIL - FUNCTIONS

ARTICLE XIV - DIRECTOR GENERAL
ARTICLE XV - PROCUREMENT
ARTICLE XVI - RELATIONS WITH INTERNATIONAL ORGANIZATIONS
ARTICLE XVII - PRIVILEGES AND IMMUNITIES
ARTICLE XVIII - VOLUNTARY WITHDRAWAL
ARTICLE XIX - SUSPENSION AND INVOLUNTARY WITHDRAWAL
ARTICLE XX - SETTLEMENT OF DISPUTES
ARTICLE XXI - SIGNATURE, RATIFICATION, ACCEPTANCE,
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APPROVAL AND ACCESSION
ARTICLE XXII - ENTRY INTO FORCE
ARTICLE XXIII - AMENDMENTS
ARTICLE XXIV - DEPOSITORY
ARTICLE XXV - LANGUAGES
ANNEX - PROTOCOL CONCERNING THE PRIVILEGES AND IMMUNITIES
OF THE INTERNATIONAL MARITIME SATELLITE ORGANIZATION

9. ATTACHMENT TWO TO U.S. NOTE
OPERATING AGREEMENT FOR INMARSAT
PREAMBLE
ARTICLE 1 - DEFINITIONS
ARTICLE 2 - RIGHTS AND OBLIGATIONS OF SIGNATORIES
ARTICLE 3 - FINANCIAL CONTRIBUTIONS
ARTICLE 4 - CAPITAL CEILING
ARTICLE 5 - INVESTMENT SHARES
ARTICLE 6 - FINANCIAL ADJUSTMENTS BETWEEN SIGNATORIES
ARTICLE 7 - UTILIZATION CHARGES
ARTICLE 8 - REVENUES
ARTICLE 9 - SETTLEMENT OF ACCOUNTS
ARTICLE 10 - DEBT FINANCING
ARTICLE 11 - EXCLUDED COSTS
ARTICLE 12 - AUDIT
ARTICLE 13 - LIABILITY
ARTICLE 14 - EXONERATION FROM LIABILITY
ARTICLE 15 - PROCUREMENT
ARTICLE 16 - INVENTIONS AND TECHNICAL INFORMATION
ARTICLE 17 - EARTH STATION APPROVAL
ARTICLE 18 - UTILIZATION OF INMARSAT SPACE SEGMENT
ARTICLE 19 - SETTLEMENT UPON WITHDRAWAL
ARTICLE 20 - SETTLEMENT OF DISPUTES
ARTICLE 21 - AMENDMENTS
ARTICLE 22 - ENTRY INTO FORCE
ARTICLE 23 - DEPOSITORY
ANNEX - LIST OF PROSEPECTIVE SIGNATORIES AND THEIR
INVESTMENT SHARE QUOTAS

10. NOTE: PARA (A) OF ARTICLE II DELIBERATELY OMITTED
AS IT IDENTICAL TO PANEL OF EXPERTS TEXT FOR THIS ARTICLE.
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Message Attributes

Automatic Decaptioning: X
Capture Date: 26 AUG 1999
Channel Indicators: n/a
Current Classification: UNCLASSIFIED
Concepts: MARINE TRANSPORTATION, TEXT, COMMUNICATION SATELLITES, NAVIGATIONAL AIDS, MEETINGS, FOREIGN POLICY
POSITION
Control Number: n/a
Copy: SINGLE
Draft Date: 10 APR 1975
Decaption Date: 01 JAN 1960
Decaption Note:
Disposition Action: n/a
Disposition Approved on Date:
Disposition Authority: n/a
Disposition Case Number: n/a
Disposition Comment:
Disposition Date: 01 JAN 1960
Disposition Event:
Disposition History: n/a
Disposition Reason:
Disposition Remarks:
Document Number: 1975STATE081863
Document Source: ADS
Document Unique ID: 00
Drafter: IO/TRC;FREIDLADN
Enclosure: n/a
Executive Order: N/A
Errors: n/a
Film Number: D750126-0048
From: STATE
Handling Restrictions: n/a
Image Path:
ISecure: 1
Legacy Key: link1975/newtext/t197504102/baaaagxm.tel
Line Count: 271
Locator: TEXT ON-LINE, TEXT ON MICROFILM
Office: ORIGIN IO
Original Classification: UNCLASSIFIED
Original Handling Restrictions: n/a
Original Previous Classification: n/a
Original Previous Handling Restrictions: n/a
Page Count: 5
Previous Channel Indicators:
Previous Classification: n/a
Previous Handling Restrictions: n/a
Reference: n/a
Review Action: RELEASED, APPROVED
Review Authority: ShawDG
Review Comment: n/a
Review Content Flags:
Review Date: 30 JUN 2003
Review Event:
Review Exemptions: n/a
Review History: RELEASED <30 JUN 2003 by SilvaL0>; APPROVED <21 JAN 2004 by ShawDG>
Review Markings:

Margaret P. Grafeld
Declassified/Released
US Department of State
EO Systematic Review
05 JUL 2006

Review Media Identifier:
Review Referrals: n/a
Review Release Date: n/a
Review Release Event: n/a
Review Transfer Date:
Review Withdrawn Fields: n/a
Secure: OPEN
Status: NATIVE
Subject: n/a
TAGS: PORG, ETEL, IMCO
To: LONDON
OSLO
STOCKHOLM
HELSINKI
MOSCOW

ATHENS
ROME
COPENHAGEN
THE HAGUE
BONN
PARIS
TOKYO
CANBERRA
WELLINGTON
OTTAWA
BRASILIA

Type: TE

Markings: Margaret P. Grafeld Declassified/Released US Department of State EO Systematic Review 05 JUL 2006